

90TH CONGRESS 2d Session	}	HOUSE OF REPRESENTATIVES	}	REPORT No. 1310
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AMENDING SECTION 1072(2) OF TITLE 10, UNITED STATES  
CODE, TO INCLUDE A FOSTER CHILD WITHIN THE  
DEFINITION OF DEPENDENT

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APRIL 24, 1968.—Ordered to be printed

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Mr. HÉBERT, from the Committee on Armed Services,  
submitted the following

REPORT

[To accompany H.R. 15865]

The Committee on Armed Services, to which was referred the bill (H.R. 15865) to amend section 1072(2) of title 10, United States Code, to include a foster child within the definition of dependent, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to amend section 1072(2) of title 10, United States Code, to include a foster child within the definition of a dependent entitled to the benefits of medical care available under the Dependents' Medical Care Act.

EXPLANATION OF THE BILL

As stated in the title of the bill, the bill would amend section 1072(2), title 10, United States Code, to include a foster child within the definition of dependent. Section 1072(2) defines the word "dependent" relative to the Dependents' Medical Care Act (now codified in sections 1071-1087, title 10, United States Code).

The basic legislation, as passed in 1956 and amended by the Military Medical Benefits Amendments of 1966, has provided uniformed servicemen in a health and medical program under which dependents receive hospitalization, medical care, limited dental care, and, in the case of mentally retarded or physically handicapped dependents, treatment and rehabilitation. With reference to children of a member (including a retired member) of the uniformed services, eligibility for

benefits is limited to "an unmarried legitimate child, including an adopted child or a stepchild." Such a definition excludes other children in the home of a serviceman even though a parent-child relationship exists and the child is in fact dependent upon the serviceman for his financial support. The purpose of H.R. 15865 is to include such foster children within the definition of "dependent," and thereby place them in the same position, with respect to health and medical entitlement, as children by birth or adoption, and stepchildren. This means that such foster children would become entitled to the full range of benefits from both uniformed services sources and civilian sources.

The term "foster child" as used in H.R. 15865 is intended to include any child, not already covered by the law (and subject, of course, to existing age limitations), who is dependent on a member of the uniformed services for over one-half of his support and who is living in the member's household in a parent-child relationship. Such situations may involve children living in the household under pre-adoption agreements; children placed in the home by social service agencies upon application of the member but without any commitment to adopt; and minor siblings, nieces, nephews, etc., being raised in the member's home due to death or disability of the actual parents. Benefits for which a social agency or other entity is legally responsible would not be furnished at the expense of the United States.

Numerous cases have been brought to the attention of the Department of Defense, many of them through constituents' letters to Members of Congress, in which members of the military services have been faced with the necessity of assuming full financial responsibility in raising children other than their own, but cannot obtain dependents' medicare benefits for them when needed. In view of current high costs of hospitalization, medical care, and other health needs, such responsibility imposes a severe hardship on those members. The chief impact of the recommended legislation would be to help those military couples who are adopting children. During the preadoption trial period (generally 6 to 18 months) while the child is assigned to live with the prospective adopting parents but before the adoption is effective, it is especially important to encourage medical examination of the child and provide prompt remedial attention when necessary.

Insurers customarily include foster children on the same basis as other children in health care insurance policies. This is true of health benefit contracts under the Federal civilian employees' health benefits program (5 U.S.C. 8901(5)). Equity dictates that similar benefits be extended to members of the uniformed services.

Most of the health care which would be made available under H.R. 15865 could be provided in medical facilities of the uniformed services.

#### FISCAL DATA

The Department of the Air Force on behalf of the Department of Defense advises that the costs resulting from enactment of this bill would be negligible and can be absorbed within funds expected to be made available to the Department.

DEPARTMENTAL POSITION

H.R. 15865 is a Department of Defense legislative proposal and is included in the legislative program of the President.

The Department of the Air Force, on behalf of the Department of Defense, on November 14, 1967, addressed a communication to the Congress requesting the enactment of this legislation.

There is set out below a copy of the departmental communication recommending favorable congressional action on H.R. 15865.

DEPARTMENT OF THE AIR FORCE,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., November 14, 1967.*

Hon. JOHN J. McCORMACK,  
*Speaker of the House of Representatives*

DEAR MR. SPEAKER: There is forwarded herewith a draft of legislation to amend section 1072(2) of title 10, United States Code, to include a foster child within the definition of dependent.

This proposal is a part of the Department of Defense legislative program for the 90th Congress and the Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Air Force has been designated to act on behalf of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

Hospitalization, medical treatment, and limited dental care benefits (referred to herein collectively as "medical care benefits") are provided for children of members of the uniformed services under chapter 55, title 10, United States Code. The term "children" is broadened by the law to include, in addition to unmarried, legitimate children of the member, only adopted children and stepchildren. Foster children are thereby excluded even though they are in fact dependent on the member. It is the purpose of this legislative proposal to also include foster children as dependents for medical care benefits.

For purposes of this proposal, the term "foster child" is intended to include any child, not otherwise covered by the law, who is dependent on the member for over one-half of his support and who is living in the household in a parent-child relationship. Such situations may involve children living in the member's household under preadoption agreements; children placed in the home by social service agencies upon application of the member but without any commitment to adopt; and minor siblings, nieces, and nephews being raised in the member's home due to death or disability of the actual parents. Medical care benefits for which non-Federal agencies are legally responsible would not be furnished by the United States.

Numerous cases have been brought to the attention of the Department of Defense, many of them through constituents' letters to Members of Congress, in which members of the uniformed services have assumed full financial responsibility in raising children other than their own, but cannot obtain uniformed services medical care benefits for them. In view of current high costs of hospitalization

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and medical care such responsibility imposes a severe hardship on those members. Military personnel, both within and outside the United States, are adopting children with increasing frequency. During the preadoption trial period (generally 6 to 18 months) while the child is assigned to live with the prospective adopting parents but before the adoption is effective, the importance of medical examinations and prompt medical attention becomes obvious. Insurers customarily include foster children on the same basis as other children in health care insurance policies. This is true of Federal civilian employees' health care insurance (5 U.S.C. 8901(5)). Therefore, equity dictates that similar benefits be extended to members of the uniformed services.

#### COST AND BUDGET DATA

It is considered that the costs resulting from enactment of this proposal would be negligible and can be absorbed within funds expected to be available.

Sincerely,

TOWNSEND HOOPES,  
*Under Secretary of the Air Force.*

#### COMMITTEE POSITION

The Committee on Armed Services, a quorum being present, unanimously recommends enactment of the bill H.R. 15865 without amendment.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, there is herewith printed in parallel columns the text of provisions of existing law which would be repeated or amended by the various provisions of the bill as reported:

EXISTING LAW	THE BILL AS REPORTED
10 U.S.C.	H.E. 15865

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§ 1072. Definitions.

In sections 1071-1085 of this title:

(1) "Uniformed services" means the armed forces and the Commissioned Corps of the Coast and Geodetic Survey and of the Public Health Service.

(2) "Dependent", with respect to a member or former member of a uniformed service, means—

(A) the wife;

(B) the unmarried widow;

(C) the husband, if he is in fact dependent on the member or former member for over one-half of his support;

(D) the unmarried widower, if, because of mental or physical incapacity he was in fact dependent on the member or former-member at the time of her death for over one-half of his support;

(E) an unmarried legitimate child, including an adopted child or a stepchild, who either—

That section 1072(2) of title 10, United States Code, is amended as follows:

(1) By inserting "a foster child," after "adopted child" in clause (E).

(2) By adding the following new flush sentences at the end:

"For the purpose of clause (E), a foster child is one who is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support, and residing in his household in a parent-child relationship. However, only that medical and dental care may be furnished to a foster child under this chapter which is not furnished by other non-Federal agencies."

THE BILL AS REPORTED

EXISTING LAW

- (i) has not passed his twenty-first birthday;
  - (ii) is incapable of self-support because of a mental or physical incapacity that existed before that birthday and is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support; or
  - (iii) has not passed his twenty-third birthday, is enrolled in a full-time course of study by the Secretary of Defense or the Secretary of Health, Education, and Welfare, as the case may be, and is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support; and
- (F) a parent or parent-in-law who is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support and residing in his household.

SUMMARY OF H.R. 15865

**Purpose of the bill:** The bill amends section 1072(2) of title 10, United States Code, to include a foster child within the definition of a military dependent eligible for medical care.

**Explanation of the bill:** The term "foster child" as proposed for inclusion within the definition of dependents authorized care under the Dependents' Medical Care Act, is intended to include any child not otherwise covered by the law, who is dependent upon the member for over one-half of his support and who is living in the household in a child-parent relationship.

The Department points out that this change is primarily intended to apply to children living in military members' households under preadoption agreements, etc.

**Departmental position:** This is a Department of Defense legislative proposal approved by the Bureau of the Budget. The Department points out that the proposed change which would make foster children eligible for medicare benefits is consistent with policy observed in the civilian community under various health care insurance policies, and is also true of the Federal civilian employees health care insurance program (5 U.S.C. 8909(5)).

**Fiscal data:** The Department advises that the costs resulting from enactment of this proposal would be negligible and can be absorbed within funds available to the Department.

**Committee position:** The Committee on Armed Services, a quorum being present, unanimously recommends enactment of H.R. 15865, without amendment.

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